TRANSCRIPT OF RECORD

Supreme Court of the United States

OCTOBER TERM, 1930

No. 393

GYNTHER STORAASLI, APPELLANT,

vs.

THE STATE OF MINNESOTA

APPEAL FROM THE SUPREME COURT OF THE STATE OF MINNESOTA

FILED AUGUST 27, 1930.

(35,315)

(35,315)

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[fols. a & 1]

IN DISTRICT COURT OF RAMSEY COUNTY, SECOND JUDICIAL DISTRICT

NOTICE OF DELINQUENT MOTOR VEHICLE TAX

To Gynther Storaasli, St. Paul, Minnesota; the State of Minnesota to the above named:

Please take notice, That, pursuant to Chapter 335, Laws of 1929, the Secretary of State has filed in this office a list of Motor Vehicles on which the tax and penalty for 1929 appears delinquent upon the record, sufficient showing not having been made upon which to remove the same from the registration tax list for said year. Included in this list is the following motor vehicle last registered in your name in 1928, under registration No. A-159588:

Make, Ford; Type, Sedan; Motor No., 7,340,959.

There is now charged against you:

For tax (to the state)	$10.00
For penalty (to the state)	10.00
Fee for this notice (to the clerk of court)	.25
Total	20.25

[fol. 2] You are, therefore, required within ten days to make payment in full at this office of said sum together with the costs and fees of these proceedings, as provided by law, or within said time to file your answer to this Notice, executed upon the reverse side hereof.

If you deny liability for the tax and file an answer, you will pay the clerk of court for the fee for this notice and also the fee for other services he may render as provided by law. See section of the law quoted below.

N. C. Robinson, Clerk of said Court.

[fol. 3] IN DISTRICT COURT OF RAMSEY COUNTY

STATE OF MINNESOTA, Plaintiff,

vs.

GYNTHER STORAASLI, Defendant

ANSWER TO NOTICE OF DELINQUENT MOTOR VEHICLE TAX

Comes now Gynther Storaasli, the defendant above named, and for his answer to the Notice of Delinquent

Motor Vehicle Tax in the above entitled matter, denies that any tax or penalty is due the State of Minnesota, upon the vehicle described in said notice; and for his grounds of such denial, alleges and shows to the Court:

I

That during all of the times covered by said notice, defendant has been, and now is, the sole owner of said motor vehicle; that he now is, and, at all times covered by said notice, was, a non-resident of the State of Minnesota, and a member of the Military Forces of the United States, quartered and resident upon the United States Military Reser- [fol. 4] vation at Fort Snelling; and that said motor vehicle is, and at all such times has been, kept and maintained upon the said military reservation; that said motor vehicle has not been operated for hire within the State of Minnesota, nor has it been present within the jurisdiction of the said State of Minnesota or upon its roads, highways or streets for any period of ten days; that said motor vehicle has not been, nor is it now, operated upon the highways, roads and streets of the State of Minnesota, except as a visitor for brief periods.

II

That at all times herein mentioned, the said United States Military Reservation at Fort Snelling was, and now is, a territory solely and exclusively within the jurisdiction of the United States, and under the governmental control of the Government of the United States; that all governmental functions upon said military reservation, including police power, traffic control and maintenance of highways, are vested in and exercised by the Commanding Officer of said reservation, who is an officer of the Army of the United States, commissioned by the President thereof under the laws of the United States, to the total exclusion of the governmental control and authority of the State of Minnesota, and that such military reservation is not a part of the State of Minnesota.

[fol. 5] III

That during all the times aforesaid, the Commanding Officer of the said military reservation has created and

maintained, in pursuance of the power vested in him, upon said military reservation, an adequate and complete system of motor vehicle registration, and has promulgated and established, in connection with and in enforcement of such system, a set of laws, rules and regulations, to which all motor vehicle owners, resident upon such reservation, are required to conform, and that the motor vehicle which was owned by the defendant herein, and which is the subject of the within litigation, at all times mentioned, has been duly and properly registered and licensed under such laws and regulations and has carried license plates which have been provided in connection with the registration of said motor vehicle, together with the registration certificate issued by the Registrar of Motor Vehicles on the United States Military Reservation at Fort Snelling.

IV

That this defendant, at all times, has been and is now, ready, willing and able to comply with all and singular the laws and regulations of the State of Minnesota applicable to non-residents of said State, whenever said non-residents have occasion to use the roads and public streets of said State, and has, through his authorized agent, the Registrar of Motor Vehicles of the Military Reservation at Fort Snelling, notified and informed the proper officials of the State [fol. 6] of Minnesota, of his said readiness to comply therewith, and that he has, at all times, carried the proper license plates issued to him by the Registrar of Motor Vehicles of the Military Reservation at Fort Snelling and has complied with all of the traffic laws and regulations of said State at all times when defendant has operated said vehicle over and upon the roads and highways of the State of Minnesota.

Wherefore defendant prays judgment dismissing this action, and such costs as to this Court may seem just and equitable and for such other relief as this Court may see fit to grant.

Lewis L. Drill, Attorney for Defendant.

Dated Aug. 26th, 1929.

[fol. 7] IN DISTRICT COURT OF RAMSEY COUNTY

MOTION FOR JUDGMENT

The defendant in the above entitled action being included in the list of owners of motor vehicles upon which a tax for the year 1929, has become due and is delinquent, which list was filed in the office of the clerk of this court on the second Monday in July, 1929, in accordance with the provisions of Section 20, Chapter 418, Laws 1923, as amended, and the defendant having filed his answer setting forth his defense and objections to the tax and penalty against him as set out in such list, the State of Minnesota, the plaintiff herein, now moves the court for judgment in its behalf for the amount of the tax and penalty payable by the defendant as set out in the certified statement so filed by the registrar of motor vehicles notwithstanding the answer of the defendant herein.

G. A. Youngquist, Attorney General; James E. Markham, Deputy Attorney General, Attorneys for Plaintiff.

Dated September 5, 1929.

It is stipulated that the foregoing motion may be bought on for hearing and heard before the judge of the court then sitting in chambers, at the court house in the city of St. Paul on Wednesday, September 11, 1929, at 10 o'clock in the forenoon of that day or as soon thereafter as counsel [fol. 8] can be heard and that upon such hearing the court may direct judgment in accordance with the rights of the parties as the court shall determine.

G. A. Youngquist, Attorney General; James E. Markham, Deputy Attorney General; Lewis L. Drill, Attorney for Defendant.

IN DISTRICT COURT OF RAMSEY COUNTY

NOTICE OF SUBSTITUTION OF ATTORNEYS

To the plaintiff above named and to G. A. Youngquist and James E. Markham, its attorneys:

SIRS: You will please take notice that James F. Lynch, 316 Hamm Building, and Pierce Butler, Jr., 1006 Mer-

chants National Bank Building, both of St. Paul, Minnesota, have been substituted as attorneys for the defendant in my place and in my stead and all further proceedings will be had with them.

Dated at St. Paul, Minnesota, this 19th day of October, 1929.

Lewis L. Drill.

[fol. 9] In District Court of Ramsey County

Order Granting Motion for Judgment

The defendant in this action being included in the list of owners of motor vehicles upon which a tax for the year 1929 has become due and delinquent, specifically Ford Sedan No. 7,340,959, registered with the Secretary of State for the year 1928 under No. A159588, which list was filed in the office of the clerk of this court on the second Monday in July, 1929, in accordance with the provisions of Section 20, Chapter 418, Laws 1923, as amended, and the defendant having filed in this court his answer setting forth his defense and objections to the tax and penalty thereon against him as the owner of such vehicle, as so set out in such list, and the state of Minnesota, the plaintiff in this action, having moved the court for judgment in its behalf for the amount of such tax and penalty notwithstanding the answer of the defendant thereto, which answer is on file in the office of the clerk of this court, and the cause standing on the calendar at a special term of this court held on the second day of November, 1929, the parties by their respective counsel appeared before the court on that date, James E. Markham, Esq., Deputy Attorney General, appearing as counsel for the State, and Messrs. Pierce Butler, Jr., James F. Lynch and Captain Ingomar M. Oseth, appearing as counsel for the defendant, and it was then and [fol. 10] there in open court agreed that the plaintiff's motion for judgment be submitted to the Court upon briefs, and it was so submitted.

Now, having given consideration to the arguments of counsel in the briefs so presented, it is

Ordered that the motion of the plaintiff for judgment in its behalf against the defendant for the amount of the tax and penalty upon the motor vehicle described in the delinquent list referred to herein be and it is granted, and judgment is hereby ordered in favor of the plaintiff and against the defendant for twenty dollars, the amount of said delinquent tax and penalty, with its disbursements to be taxed by the clerk in accordance with the usual practice in civil actions.

Dated December 5, 1929.

Charles Beelhoefer, District Judge.

In District Court of Ramsey County

Waiver of Notice of Taxation of Costs

Defendant waives notice of taxation of costs and consents that they be taxed by the clerk without notice.

Dated December 20, 1929.

Doherty, Rumble, Bunn & Butler, Attorneys for Defendant, 1006 Mer. Bank Bldg., Saint Paul, Minnesota.

[fol. 11] In District Court of Ramsey County

Judgment

Pursuant to the order duly made in the above entitled action on the 5th day of December, A. D. 1929.

Now, on motion of Henry Benson and James Markham, said Attorney, It Is Hereby Adjudged that the Plaintiff herein recover of said Defendant Gynther Storaasli, the sum of Twenty and no/100 Dollars with Two and 25/100 Dollars costs and disbursements, in all amounting to $22.25.

Signed this 24 day of December A. D. 1929.

N. C. Robinson, Clerk, by M. A. Cowing, Deputy Clerk.

[fol. 12] In District Court of Ramsey County

Notice of Appeal

To Henry N. Benson, Attorney General; James E. Markham, attorneys for the plaintiff, and to N. C. Robinson, clerk of District Court:

Please take notice that the above defendant appeals to the Supreme Court of the State of Minnesota from the judgment in the above entitled action, by which it was adjudged and decreed that plaintiff recover from defendant the sum of Twenty-two and 25/100 Dollars ($22.25). Said appeal is taken from the whole of said judgment and from each and every part thereof.

James F. Lynch, Doherty, Rumble, Bunn & Butler, Attorneys for Defendant. Ingomar M. Oseth, of Counsel.

Due and personal service of the within Notice of Appeal is hereby admitted at St. Paul, Minn., this 31 day of December, 1929. Any and all bond on such appeal is hereby waived and said appeal may be as effective as though a supersedeas bond had been given.

Henry N. Benson, James E. Markham, Attorneys for Plaintiff.

Due and personal service of the within Notice of Appeal is hereby admitted this 31 day of December, 1929.

N. C. Robinson, Clerk of District Court.

[fol. 13] In Supreme Court of Minnesota

Assignments of Error—Filed Feb. 15, 1930

The Court erred:

I

In making its order for judgment on the pleadings in favor of the plaintiff and against the defendant.

II

In entering judgment in favor of the plaintiff and against the defendant.

III

In making its order aforesaid, because it thereby denied to the defendant rights reserved to him by the Constitution of the United States, notably by the Fourteenth Article of Amendment thereof, and by the Constitution of Minnesota.

[File endorsement omitted.]

[fol. 14] [File endorsement omitted.]

IN SUPREME COURT OF MINNESOTA
No. 142. 27913

STATE OF MINNESOTA, Respondent,

vs.

GYNTHER STORAASLI, Appellant

Ramsey County. Olsen, C.

Syllabus

1. Jurisdiction over the Fort Snelling military reservation was ceded to the United States by Chapter 57, Laws 1889, except to the extent therein specially limited.

2. This state may not impose a property tax upon property located within such military reservation and having no situs for taxation in this state outside of the reservation.

3. The Minnesota motor vehicle tax is both a property tax and a privilege tax. The elements of property tax and privilege tax are inseparable and each extends to the entire tax. It may be imposed as a privilege tax against nonresidents using our highways although their cars have not a situs for the ordinary taxation as property in this state.

4. Defendant is a member of the military forces of the United States, stationed at Fort Snelling. He owns an automobile and drives it for his own convenience and pleasure upon the highways of the state outside of the

military reservation. He so used the car for more than a year. He is not a resident of this state and has not registered his car in the state or country of his legal residence. He has registered it under regulations of the commanding officer at Fort Senlling and paid a small fee to defray the expense of registration. It is held that he is subject to the payment of the state motor vehicle tax, and is not exempt under the provision exempting visitors to the state for a limited period.

5. The motor vehicle license act does not violate the Fourteenth Amendment to the Federal Constitution.

Affirmed.

[fol. 15] OPINION—Filed April 25, 1930

Proceeding by the state to collect from defendant a license tax on an automobile. Judgment for recovery of the tax, penalty, and costs, was entered in the district court, and defendant appeals.

Defendant is a nonresident of this state, a member of the military forces of the United States, stationed at Fort Snelling. His place of legal residence is not disclosed. He has been there stationed for more than a year. He owns an automobile and, in the year 1928, paid the license tax to the state and received a proper state license and number plates, which he used. He keeps the car on the Fort Snelling military reservation, but uses it for travel on the highways of the state outside of the reservation. He states in his answer that he has not used the car on the highways outside of the reservation for any one period of ten consecutive days, and that he so uses it only as a visitor for brief periods at a time. The Fort Snelling reservation is a small tract of land adjacent to the cities of St. Paul and Minneapolis, and there is little occasion for the use of a car by defendant upon the reservation itself. By Chapter 57, Laws 1889, the state ceded to the United States jurisdiction of the territory embraced in the reservation. The state reserved the right to serve process and papers in civil or criminal cases on persons within the reservation, and to arrest and punish persons charged with crimes against the laws of the state, whether such crimes were committed within or without the boundaries of the reservation.

It appears that the commanding officer at Fort Snelling has created and maintains a system of registration for automobiles owned and kept there by members of the military forces. A charge of $3.00 is made to defray the expense of registration. The defendant's automobile was so registered and was provided with some form of license number and plates, and a form of registration certificate issued to defendant. Defendant states that he is willing to [fol. 16] comply with the laws and regulations of the state of Minnesota applicable to nonresidents.

In defendant's brief we find the following points presented:

1. That the Fort Snelling reservation is not within the jurisdiction of this state:

Except as to matters of jurisdiction reserved to the state by Chapter 57, Laws 1889, the statement is concededly correct.

2. That the state of Minnesota has no jurisdiction to tax property located on the military reservation:

This may be conceded so far as imposing a property tax upon property while there located so as to have no situs for taxation in this state.

3. That the Minnesota Motor Vehicle tax is a property tax:

The license tax is both a property tax and a privilege tax. State v. Oligney, 162 Minn. 302, 202 N. W. 893; Raymond v. Holm, 165 Minn. 215, 206 N. W. 166. It is a property tax in the sense that it exempts the vehicle licensed from other taxation as property. It is in lieu of other taxes. But it is equally clear that it is a privilege tax. All motor vehicles, with the exception hereinafter noted, are prohibited from using the public highways until the tax is paid. It is a tax imposed for the privilege of using the public highways of the state and collected for the specific purpose of building and maintaining such highways. The elements of property tax and privilege tax are inseparable. American Railway Exp. Co. v. Holm, 173 Minn., 72, 216 N. W. 542. The character of a privilege tax extends to the whole tax. So does the character of a property tax. As a property tax it could not be imposed against visitors from other states whose automobiles have not a situs for taxation in this state. Yet

it may be and is so imposed, except that visitors who, within ten days after entering the state or commencing to use the highways, register their automobile with the secre-
[fol. 17] tary of state, showing that the car is properly registered and licensed under the laws of the country or state of the owner, may use the highways of this state for a period of not more than ninety days without payment of the tax. It is so imposed on nonresidents as a privilege tax. Mason's Minn. State. Sections 2675, 2684.

4. Regarded as a privilege tax, it cannot be imposed on this car:

Under this heading, it is claimed that, defendant being a nonresident and having registered his car under regulations made by the comamnding officer of the military reservation, his car is exempt from the tax under Mason's Minn. Stat., Sec. 2684, exempting nonresidents under the conditions and limitations therein stated. We are unable to hold that the Fort Snelling military reservation is either a "country or state", within the meaning of that expression as used in this statute. This is but one country and that word quite clearly refers to foreign countries such as Canada and Mexico. The word "state" should not be given a narrow construction. Our statute, G. S. 1923, Sec. 10933, Subsec. 17, makes it include the District of Columbia. A state, as generally understood, is a territorial division having an organized civil government in some form, a political community.

Defendant does not claim to have registered his car at his place of legal residence. He did not become a resident or citizen of the military reservation by being stationed there. 19 C. J. 418. Whatever force, as law, the regulations of the commander at Fort Snelling may have within the reservation, they can hardly be claimed to have the force of law as to the use of highways outside of the reservation. Congress could make laws for the use of highways outside of the reservation for military purposes, or in aid of the business and operation of the reservation for purposes in which the Federal Government had an interest. It probably could not go beyond that.

[fol. 18] The reasonable inferences and conclusions from the pleadings and arguments here are that defendant used his car for his own convenience and pleasure in the ordinary way; that he so used it regularly and continuously,

although not every day, to go to and from the two cities and other places in the state outside of the reservation and that such use had continued for more than a year. He was not a visitor coming here from another state or country. He had his abode, but not his legal residence, on the reservation while stationed there. He had not registered his car with the secretary of state as a visitor from another state or country, and could not do so without registration in his home state.

The case of Bailey v. Smith, in the Federal district court of Iowa, quoted in plaintiff's brief, holds that a military reservation, of the same kind as Fort Snelling, is not a state, country, territory, or federal district, so as to come within the exception in the Iowa motor registration law.

The case of State v. Oligney, supra, is instructive here. There, a nonresident owner of a motor truck used it quite regularly to transport merchandise for hire from points in Wisconsin to the cities of St. Paul and Minneapolis in this state. In so doing he traveled over the highways of this state for part of each trip. He was held liable to the motor vehicle tax in this state. While the exemption of visitors whose cars were registered in their home state and who had registered here as visitors was not there involved, the holding that the legislature had undoubted constitutional power to impose the tax upon nonresidents using the highways of this state is in point. Hendrick v. Maryland, 235 U. S. 610, 59 L. Ed. 385, and Kane v. New Jersey, 242 U. S. 160, 61 L. Ed. 222, are cited.

5. It is stated, but not much argued, that, if construed as claimed by the plaintiff, the law is discriminatory and violates the equality provision of the Fourteenth Amendment. We see no objection to the law on that ground.

Judgment affirmed.

[fol. 19] [File endorsement omitted]

[fol. 19½] IN SUPREME COURT OF MINNESOTA

[Title omitted]

PETITION FOR REARGUMENT—Filed May 1, 1930

We respectfully submit that the Court has overlooked important points raised on this appeal. The court will

probably recall that the amount involved in the instant case was not sufficient to permit oral argument. Upon application twenty minutes was granted. Within that time it was difficult to adequately argue all important points.

[fol. 20] In the opinion in this case the court said:

"The Fort Snelling reservation is a small tract of land adjacent to the cities of St. Paul and Minneapolis and there is little occasion for the use of a car by defendant upon the reservation itself.

* * * * * * * * *

"The reasonable inferences and conclusions from the pleadings and arguments here are that defendant used his car for his own convenience and pleasure in the ordinary way; that he so used it regularly and continuously, although not every day, to go to and from the two cities and other places in the state outside of the reservation, and that such use had continued for more than a year."

The answer was perhaps not sufficiently specific and detailed upon these questions. It alleged that the vehicle in question had been kept and maintained upon the reservation; that it had not been operated for hire within the State of Minnesota; that it had not been present within the jurisdiction of the state for any period of ten days; that it had not been operated upon the highways of the state except as a visitor for brief periods. If the exact amount and nature [fol. 21] of the use is deemed material we pray an opportunity to prove, as we are advised the facts are, that over eighty per cent of the use of the defendant's car has been local to the reservation, that less than twenty per cent of such use has been off the reservation, and that a great part of its total use, both on and off the reservation, has been in line of military duty. We are advised that the same proportions hold for substantially all the private cars owned by members of the garrison.

The court at the conclusion of the opinion said:

"It is stated, but not much argued, that if construed as claimed by the plaintiff, the law is discriminatory and vio-

lates the equality provision of the Fourteenth Amendment. We see no objection to the law on that ground."

The argument upon this point was much abbreviated in view of the limitation as to time. Briefly, the discriminations claimed are two:

I

[fol. 22] Under the opinion filed in this case the Court has definitely held that the tax against this vehicle may be enforced as a privilege tax. It is conceded that the defendant is not subject to property taxation, so the whole tax, as to him, is for the privilege. But as to persons owning cars within the state, and who are subject to property taxation, the same payment pays a tax upon their cars as property "on a more onerous basis than other personal property" and also gives them the privilege to use the roads. By the enforcement of this tax to the full extent as against the residents of the military reservation, wholly as a privilege tax, the State singles out these individuals and taxes them at a higher rate for the privilege of using the roads of the state than it does its own residents. This is one discrimination.

II

[fol. 23] Residents of Iowa, the Dakotas or Wisconsin, living near the boundary line, may drive their cars in Minnesota every day, without paying any tax at all, provided only that their cars are not within the state for any continuous period of ninety days. But as the law is now construed, a resident of the military reservation who drives his car within the state at all most pay the total tax. This is certainly a most important difference of treatment, which the appellant claims is a discrimination.

In the view which the Court has taken of the facts, each of these discriminations seems perhaps less striking than the appellant feels they are. The fundamental inquiry on each no doubt is whether there is a sufficient difference of fact to justify the discrimination made. It is hard to deal

with that inquiry on the pleadings. For that reason, and [fol. 24] because the Court's effort to do so, necessary as the case came to the Court, seems to the appellant to have resulted in misapprehension as to what the real facts are, appellant petitions for a reargument, and moves that the judgment below upon the pleadings be reversed, so that appellant may have an opportunity to show, in detail, what the use of his car has been and is. Upon such a detailed showing of the facts appellant is convinced that the Court's view of the seriousness of the discriminations claimed may well be different.

Respectfully submitted.

James F. Lynch, Doherty, Rumble, Bunn & Butler, Saint Paul, Minnesota, Attorneys for Appellant. Ingomar M. Oseth, Captain, Third Infantry, of Counsel.

[fol. 25] IN SUPREME COURT OF MINNESOTA

27913

STATE OF MINNESOTA, Respondent,

vs.

GYNTHER STORAASLI, Appellant

NOTICE OF ORDER DENYING PETITION FOR REARGUMENT

State of Minnesota, Office of Clerk of Supreme Court, St. Paul, Minn.

May 23rd, 1930.

SIR: You will please take notice that on this date the following order was entered in the above entitled cause:

Ordered, that the petition for reargument herein be and the same hereby is denied and stay vacated.

Yours respectfully, Grace Kaercher Davis, Clerk Supreme Court.

[fol. 26] IN SUPREME COURT OF MINNESOTA

27913

STATE OF MINNESOTA, Respondent,

vs.

GYNTHER STORAASLI, Appellant

JUDGMENT—Filed May 23, 1930

Pursuant to an order of Court heretofore duly made and entered in this cause it is determined and adjudged that the Judgment of the Court below, herein appealed from, to-wit, of the District Court within and for the County of Ramsey be and the same hereby is in all things affirmed;

And it is further determined and adjudged that Respondent herein do have and recover of Appellant herein the sum and amount of forty-seven and 50/100 dollars ($47.50) costs and disbursements in this cause in this Court, and that execution may be issued for the enforcement thereof.

Dated and signed May 23d, 1930, A. D.

By the Court.

Attest:

Grace Kaercher Davis, Clerk, by Peter O. Scow, Deputy

Statement for Judgment

Statutory Costs, $25.00; Printer, $22.50; Acknowledgments, $——; Return, $——; Postage and Express, $——; Filing Mandate, $——; Transcript, $——; Appeal Bond, $——; Total, $47.50.

[fol. 27] Clerk's certificate to foregoing paper omitted in printing.

[File endorsement omitted.]

[fol. 28] IN SUPREME COURT OF MINNESOTA

[Title omitted]

PETITION FOR APPEAL AND ASSIGNMENTS OF ERROR—Filed Aug. 18, 1930

Considering himself aggrieved by the final decision of the Supreme Court of the State of Minnesota, in the above

entitled cause, rendered on the 23rd day of May, 1930, Gynther Storaasli, appellant herein, hereby prays for the allowance of an appeal to the Supreme Court of the United States from said final judgment, and for an order fixing the amount of the bond for costs thereon.

Appellant represents that the issues involved in the above entitled cause question the validity of the motor vehicle registration tax law of the State of Minnesota, (to-wit: Sections 2762 to 2704, both inclusive, of Mason's General Statutes for 1927, as amended by Chapter 335, Session Laws of Minnesota, 1929), insofar as said law is construed to apply to and impose a motor vehicle registration tax upon a privately owned motor vehicle kept on the Fort Snelling Military Reservation by an officer of the United States Military forces stationed thereon, upon the ground of its being repugnant to the Constitution of the United States, notably the Fourteenth Article of Amendment thereof, in that said law and the authority exercised under it, deprived said appellant of rights reserved him by the Constitution of the United States, notably by the Fourteenth [fol. 29] Article of Amendment thereof; that the decision of said Minnesota Supreme Court, as set forth in the opinion filed by it in connection with its final judgment rendered May 23rd, 1930, as aforesaid, was in favor of the validity of said statute as so applied, and of the authority exercised under it, and denied the claim of the appellant that said statute as so applied, and the authority exercised under it, was repugnant to the Constitution of the United States; and that said cause is one in which, under the legislation in force prior to the adoption of the Act of Congress approved January 31, 1928, as amended by the Act of Congress approved April 26th, 1928, a review could have been had in the United States Supreme Court in this case on writ of error under section 237 of the Judicial Code, as amended, being section 344 of the United States Code Annotated.

Assignment of Errors

And said appellant assigns the following errors in the record and proceedings in said cause:

1. That the said Supreme Court of Minnesota erred in holding that the State of Minnesota had any jurisdiction

or power under the Constitution of the United States to levy or impose a tax upon a privately owned automobile, kept on the Fort Snelling Military Reservation by an officer of the United States Military forces stationed thereon.

2. That the said Supreme Court of Minnesota erred in adjudging and deciding that the motor vehicle registration tax law of Minnesota, (to-wit: sections 2762 to 2704, both inclusive of Mason's General Statutes, 1927, as amended by Chapter 335, Session Laws 1929), insofar as the same is construed to apply to and impose a registration tax upon the said motor vehicle, and the authority exercised under said law, are valid and do not deprive appellant of rights [fol. 30] reserved to him by the Constitution of the United States, notably by the Fourteenth Article of Amendment thereof.

3. That the said Supreme Court of the State of Minnesota erred in affirming and sustaining the judgment of the District Court of Minnesota for the Second Judicial District, dated December 24, 1929, and in not giving to the appellant herein his rights under the Constitution of the United States as claimed and set forth in the record in this case.

For which errors the appellant herein prays that the said final judgment and decision of the Supreme Court of the State of Minnesota, dated May 23rd, 1930, in this cause, be reversed and a judgment rendered in and for said appellant and for costs.

Dated August 15, 1930.

Gynther Storaasli, by Charles Bunn, Pierce Butler, Jr., Charles Bunn, Pierce Butler, Doherty, Rumble, Bunn & Butler, His Attorneys.

[File endorsement omitted.]

[fol. 31] IN SUPREME COURT OF MINNESOTA

[Title omitted]

ORDER ALLOWING APPEAL—Filed Aug. 18, 1930

The petition of Gynther Storaasli for the allowance of an appeal to the Supreme Court of the United States from

the final judgment entered in the above entitled cause on May 23rd, 1930, came on to be heard, accompanied by assignments of error and prayer for reversal in due form, and it appearing that said cause was one in which under the jurisdiction in force when the Act of Congress approved January 31, 1928, as amended by the Act of Congress approved April 26th, 1928, was passed, a review could have been had in the Supreme Court of the United States on Writ of Error, and the Court upon hearing Doherty, Rumble, Bunn & Butler, attorneys for said petitioner, in support of said petition, and having duly considered said matter;

It is hereby ordered that an appeal to the Supreme Court of the United States by said Gynther Storaasli, in the above entitled cause, is hereby allowed, upon the filing of a bond for securing costs to the State of Minnesota in the form presented to this Court in the amount of Five Hundred and no/100 ($500.00) Dollars.

And the Clerk of this Court is hereby ordered to transmit under her hand and the seal of this Court to the Su-
[fol. 32] preme Court of the United States a copy of this Order and of the proceedings had and taken in this cause so that the same shall be received by said Clerk of the Supreme Court of the United States within thirty days from the date of this order.

Dated August 15, 1930.

A. B. Wilson, Chief Justice of the Supreme Court of Minnesota.

[File endorsement omitted.]

[fols. 33 & 34] Bond on appeal for $1,000, approved and filed Aug. 18, 1930, omitted in printing.

[fol. 35] Citation, in usual form, showing service on Henry N. Benson and James E. Markham, filed Aug. 18, 1930, omitted in printing.

[fol. 36] IN SUPREME COURT OF MINNESOTA

[Title omitted]

PRÆCIPE FOR TRANSCRIPT OF RECORD—Filed Aug. 18, 1930

To Clerk of the Supreme Court of Minnesota:

You will please prepare a transcript of the record in this case to be filed in the office of the Clerk of the United States Supreme Court, pursuant to the appeal heretofore allowed herein, and include in said transcript the following portions of the record in said case in your office, namely:

1. Transcript from District Court, Second Judicial District, Ramsey County, Minnesota, consisting of the following: Notice of Delinquent Motor Vehicle Tax; Answer to Notice of Delinquent Motor Vehicle Tax; Motion for judgment by the State of Minnesota, Substitution of Attorneys; Order for Judgment dated December 5th, 1929; Waiver of Notice of Taxation of Costs; Judgment entered December 24th, 1929, and Notice of Appeal by Gynther Storaasli to Supreme Court of Minnesota.

2. Gynther Storaasli's assignment of Errors of District Court.

3. Opinion and Syl-abus of Minnesota Supreme Court rendered April 25, 1930.

4. Gynther Storaasli's Petition for Re-argument in Minnesota Supreme Court.

[fol. 37] 5. Order of Supreme Court denying Re-argument.

6. Judgment in Minnesota Supreme Court dated May 23rd, 1930.

7. Gynther Storaasli's Petition for Appeal, Assignment of Errors and Prayer for Reversal.

8. Order of Minnesota Supreme Court allowing appeal.

9. Bond on Appeal.

10. Citation and Service.

11. The Præcipe and Service.

Said transcript to be prepared and required by law and the rules of the Supreme Court of Minnesota and the Supreme Court of the United States.

Dated August 18, 1930.

Charles Bunn, Pierce Butler, Jr., Charles Bunn, Pierce Butler, Jr., Doherty, Rumble, Bunn & Butler, Attorneys for Appellant.

We, the attorneys of record for the Appellee in the above entitled cause, do acknowledge due service of the above Præcipe this 18th day of August, 1930.

Henry N. Benson, Attorney General of the State of Minnesota. James E. Markham, Deputy Attorney General for the State of Minnesota.

[File endorsement omitted.]

[fols. 38 & 39] Clerk's certificates to foregoing transcript omitted in printing.

[fol. 40] IN SUPREME COURT OF THE UNITED STATES

STATEMENT OF POINTS ON WHICH APPELLANT INTENDS TO RELY AND DESIGNATION OF PARTS OF THE RECORD DEEMED NECESSARY FOR THE CONSIDERATION THEREOF—Filed Aug. 27, 1930.

The Appellant herein intends to rely upon the following points in the appeal taken in this case.

I

The State of Minnesota had no jurisdiction or power under the Constitution of the United States to levy or impose a tax upon a privately owned automobile, kept on the Fort Snelling Military Reservation by an officer of the United States Military forces stationed thereon.

II

The motor vehicle registration tax law of Minnesota, to-wit: (Sections 2672 to 2704, both inclusive of Mason's General Statutes, 1927, as amended by Chapter 335, Session Laws 1929), insofar as the same is construed to apply to and impose a registration tax upon said motor vehicle, and the authority exercised under said law, are invalid and deprive appellant of rights reserved to him by the Constitution of the United States notably by the Fourteenth Article of Amendment thereof.

III

The Supreme Court of Minnesota erred in affirming and sustaining the judgment of the District Court of Minnesota [fols. 41 & 42] for the Second Judicial District, dated December 24th, 1929, and is not giving to the appellant herein his rights under the Constitution of the United States as claimed and set forth in the record in this case.

Appellant designates the following parts of the record in this appeal as those which he thinks necessary for consideration of the above mentioned points:

1. All of the record in appeal (No. —) except repetition of titles as transmitted by the Clerk of the Supreme Court of Minnesota to the Clerk of the United States Supreme Court.

Pierce Butler, Jr., Charles Bunn, Attorneys for Appellant, 1006 Merchants Bank Building, St. Paul, Minnesota.

We, the attorneys of record for the Appellee in the above entitled cause, acknowledge due service of the above Statement and Designation this 21st day of August, 1930, and we do stipulate and agree that the record in said appeal may be printed in the manner requested in the within Statement and Designation.

Henry N. Benson, James E. Markham.

[fol. 43] [File endorsement omitted.]

Endorsed on cover: File No. 35,315. Minnesota Supreme Court. Term No. 393. Gynther Storaasli, Appellant, vs. The State of Minnesota. Filed August 27, 1930. File No. 35,315.